

HOUSE BILL 1731
By Garrett

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 6, Part 3 and Title 37, Chapter 1, Part 1, relative to custodial rights and grandparent visitation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-6-306(a), is amended by deleting the words and punctuation "a court of competent jurisdiction," and by substituting instead the following:

the juvenile court of the county in which the petitioned child currently resides,

SECTION 2. Tennessee Code Annotated, Title 36, Chapter 6, Part 3, is amended by adding the following language as a new, appropriately designated section:

§ 36-6-308.

(a) The general assembly finds that children should be provided with the stability and continuity of meaningful relationships in their lives. If a child has had a sufficient relationship with a biological or stepbrother or sister, then the loss of that relationship becomes a severe emotional and psychological loss to the child. Such a loss creates substantial harm to the welfare and the continuing development of the child.

The general assembly recognizes the detrimental effect of divorce, non-marriage or loss of a parent, on many children who will no longer have relationships that are possible with an intact family. The general assembly finds the need for stability and consistency in children's lives and recognizes the fundamental importance of sibling relationships to the welfare of the child. The general assembly finds that the relationship between the child and each sibling should be fostered.

(b) A biological or step-sibling may petition the juvenile court for reasonable visitation rights with a brother or sister if a sufficient relationship exists between the children.

(c) Siblings shall be deemed to have a sufficient existing relationship if:

(1) The siblings have lived together preceeding the filing of the petition for visitation rights; or

(2) The child being petitioned by one (1) of such child's siblings has resided with one (1) of the parents of the petitioning siblings preceeding the filing of the petition for visitation rights.

(d)

(1) In a hearing concerning a petition by a sibling for reasonable rights of visitation, the court shall make the following findings of fact:

(A) The siblings have a sufficient existing relationship, as defined in subsection (c); and

(B) The visitation is in the best interest of the child being petitioned.

(2) To determine the best interest of the child under this section, the court shall consider a number of factors, including, but not limited to the following:

(A) The universal emotional ties between siblings of all ages;

(B) The preference of the petitioned child if the child is determined to be of sufficient maturity to express a preference;

(C) The willingness of the petitioning sibling to encourage a close relationship between the petitioned child and that child's parents;

(D) The good faith of the petitioning sibling in filing the petition;

(E) The time-sharing arrangement that exists between the parents with respect to the petitioned child, if the parents are divorced or separated; and

(F) If one (1) parent is deceased or missing, the fact that the siblings are related by birth or marriage gives visitation a priority for the well-being of the petitioned sibling.

(e) The juvenile court of the county in which the petitioned child resides, at the time of petitioning, shall have exclusive original jurisdiction in all of the above sibling visitation cases and proceedings.

SECTION 3. Tennessee Code Annotated, Section 37-1-103(a), is amended by deleting subdivision (3) and by substituting instead the following:

(3) Proceedings arising under § 36-6-306, § 36-6-308 or §§ 37-1-141 - 37-1-144;

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. This act shall take effect July 1, 2003, the public welfare requiring it.